

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**UNIVERSAL PROPERTY &  
CASUALTY INSURANCE  
COMPANY** a/s/o Marguerite  
Williams and a/s/o Charlesetta Lacy,

Plaintiff,

v.

**BEST BUY STORES, L.P.** and  
John Doe Delivery Service,

Defendants.

**CIVIL ACTION FILE NO.**

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**NOTICE OF REMOVAL**

Defendant Best Buy Stores, L.P. (“Best Buy” or “Defendant”) submits this Notice of Removal of the action referenced herein from the State Court of Gwinnett County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division, respectfully showing as follows:

1.

Best Buy is a named defendant in a civil action brought in the State Court of Cobb County, Georgia, styled *Universal Property & Casualty Insurance Company a/s/o Marguerite Williams and a/s/o Charlesetta Lacy*

*v. Best Buy Stores, L.P. and John Doe Delivery Service*, Civil Action File No. 23-C-05300-S5.

Attached hereto and made a part hereof as Exhibits are:

- Exhibit 1: A copy of the “Complaint for Tort of Negligence” filed by Plaintiff in the State Court of Gwinnett County on July 28, 2023;
- Exhibit 2: A copy of the Summons issued by the Clerk of the State Court of Gwinnett County on July 28, 2023; and
- Exhibit 3: A copy of the Sheriff’s Entry of Service as to Best Buy.

The attached Exhibits 1 through 3 are copies of all process, pleadings, and orders served on Defendant in the action pending in the State Court of Gwinnett County, Georgia.

2.

The aforementioned action was commenced by the filing of Plaintiff’s complaint in the State Court of Gwinnett County, Georgia on July 28, 2023.

3.

Plaintiff stated in the Complaint that Plaintiff seeks to recover \$89,785.81 from Defendant in this action.

4.

This Court has jurisdiction over this action under 28 U.S.C. § 1332 because there is complete diversity of citizenship between the Plaintiff and Defendant, and the amount in controversy exceeds \$75,000.00, excluding interest and costs.

5.

Pursuant to 28 U.S.C. § 1446(b)(1) and FED. R. CIV. P. 6(a), this Notice of Removal is filed within 30 days after receipt by Defendant, through service or otherwise, of a copy of a pleading, amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

6.

The subject controversy is one between a resident and citizen of the state of Florida (Plaintiff) and a defendant who is not a citizen or resident of Florida or Georgia.

7.

Plaintiff is a citizen and resident of the state of Florida, as a corporation organized under the laws of the state of Florida with its principal office located in Florida.

8.

Defendant is a limited partnership organized under the laws of the state of Virginia with its principal office located in Minnesota. Defendant's general partner, BBC Property Co., is a corporation organized under the laws of the state of Minnesota with its principal office located in Minnesota.

9.

In determining whether removal to this Court is jurisdictionally proper, it is improper to consider the assumed citizenship of fictitious defendants. *See Smith v. Comcast Corp.*, 786 Fed. Appx. 935, 937 (11<sup>th</sup> Cir. 2019); *Kerr v. Southwest Airlines Co.*, 2020 U.S. Dist. LEXIS 268133, \*4-5 (Case no. 1:19-cv-05839-JPB) (N.D. Ga. Sep. 9, 2020).

10.

The amount in controversy exceeds \$75,000.00, excluding interest and costs, and this is a civil action brought in a State Court of the State of Georgia, of which the United States District Courts have original jurisdiction because of diversity of citizenship and the amount in controversy pursuant to 28 U.S.C. § 1332.

11.

Based on the complete diversity that exists between the parties and the amount in controversy, the pending action is one which Defendant is entitled to remove to this Court pursuant to 28 U.S.C. §§ 1332, 1446(b).

WHEREFORE, Defendant Best Buy Stores, L.P. prays this Notice of Removal be filed, that said action be removed to and proceed in this Court, and no further proceedings be had in the said case in the State Court of Gwinnett County, Georgia.

Respectfully submitted this 1<sup>st</sup> day of September, 2023.

**HAWKINS PARNELL & YOUNG, LLP**

*/s/ Martin A. Levinson*

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